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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------------------|-------------|----------------------|---------------------|------------------|
| 10/612,270 | 07/03/2003 | Juergen Koessler | K201 0010 | 4086 |
| 720 | 7590 | 10/07/2004 | EXAMINER | |
| OYEN, WIGGS, GREEN & MUTALA | | | BOLES, DEREK | |
| 480 - THE STATION | | | ART UNIT | PAPER NUMBER |
| 601 WEST CORDOVA STREET | | | | |
| VANCOUVER, BC V6B 1G1 | | | 3749 | |
| CANADA | | | | |

DATE MAILED: 10/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|-----------------|-------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/612,270 | KOESSLER, JUERGEN |
| Examiner | Art Unit | |
| Derek S. Boles | 3749 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 03 July 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-47 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-4,6,8,9,13-30,32,33 and 36-47 is/are rejected.
- 7) Claim(s) 5,7,10-12,31,34 and 35 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 03 July 2003 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 7/22/04.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 26 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 26 recites the limitation "the mounting" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 17-23, 25, 36, 37, 42, 46 and 47 are rejected under 35 U.S.C. 102(b) as being anticipated by Marcello et al. (5,383,816). See fig. 1, 30, 32, 52. Regarding claims 17 and 36, see 36. Regarding claim 18, see 32. Regarding claim 20, see 44. Regarding claim 23, see 48.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

Art Unit: 3749

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim(s) 2-4, 6, 8, 9, 27-30, 32, 33, 38-41 and 43-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marcello et al. in view of Riesner (2,052,315). Marcello et al. discloses all of the limitations of the claim(s) except for a bottom drainage flange which projects outwardly and downwardly from beneath the vent aperture for conveying moisture on a surface thereof and an outermost edge of the bottom drainage flange projects outwardly past the outermost one of the one or more external building surface layers. Riesner discloses the presence of a bottom drainage flange which projects outwardly and downwardly from beneath the vent aperture for conveying moisture on a surface thereof and an outermost edge of the bottom drainage flange projects outwardly past the outermost one of the one or more external building surface layers. See fig. 1, **30** and **50**. Hence, one skilled in the art would find it obvious to modify the system of Marcello et al. to include the bottom drainage flange which projects outwardly and downwardly from beneath the vent aperture for conveying moisture on a surface thereof and an outermost edge of the bottom drainage flange projects outwardly past the outermost one of the one or more external building surface layers of Riesner for the purpose of mold prevention. Regarding claims 4, 6 and 8, see **29**.

Claim(s) 13 rejected under 35 U.S.C. 103(a) as being unpatentable over Marcello et al. in view of Miller (3,842,722). Marcello et al. discloses all of the limitations of the claim(s) except for one or more releasable fasteners for removably holding the vent cover to the base member. Miller discloses the presence of a one or more releasable fasteners for removably holding the vent cover to the base member. See **16**. Hence, one skilled in the art would find it obvious to modify the system of Marcello et al. to include the one or more releasable fasteners

for removably holding the vent cover to the base member of Miller for the purpose of cleaning capabilities.

Regarding claims 14 and 24, Marcello et al. in view of Miller discloses all of the limitations of the claim except for one of the one or more releasable fasteners comprises a snap together connection and a damper member which is pivotally coupled to the vent cover. However, since the applicant has failed to establish any criticality or synergistic results which are derived from the recited configurations, these limitations are considered a matter of obvious design choice. Thus, the applicant's design configurations would have been an obvious improvement to one of ordinary skill in the art with regard to the apparatus disclosed in Marcello et al. in view of Miller.

Claim(s) 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marcello et al. in view of Riesner and in further view of Schneider. Marcello et al. in view of Riesner discloses all of the limitations of the claim(s) except for the vent cover comprises an apertured grille which extends inwardly from an outer edge of the hood member. Schneider discloses the presence of an apertured grille which extends inwardly from an outer edge of the hood member. See **15**. Hence, one skilled in the art would find it obvious to modify the system of Marcello et al. in view of Riesner to include a an apertured grille which extends inwardly from an outer edge of the hood member of Schneider for the purpose of debris prevention. Regarding claim 16, see **20**.

Allowable Subject Matter

Claims 5, 7, 10-12, 31, 34 and 35 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The provided references are representative of the state of the art that is applicable to the applicant's invention. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Derek S. Boles at (703) 308-1804 or fax number (703) 872-9306. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0861. The Supervisory Primary Examiner for Art Unit 3749 is Ira Lazarus who can be reached at (703) 308-1935.

D.S.B.


DEREK S. BOLES
PRIMARY EXAMINER
GROUP 3700

10/1/04